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August 26, 1955

OGC HAS REVIEWED.

GSA DECLASS/RELEASE INSTRUCTIONS ON FILE

Honorable Percy Rappaport
Assistant Director
Bureau of the Budget
Washington 25, D. C.

Re: Design and Construction of
Central Intelligence Agency
Headquarters

Dear Mr. Rappaport:

As you know, a difference of opinion exists between this Administration and the Central Intelligence Agency as to which agency has responsibility for the design and construction of the CIA headquarters building authorized by Section 401, Title IV, Public Law 161, 84th Congress, approved July 15, 1955.

That law authorized the Director of Central Intelligence "to provide for" a headquarters installation for the Central Intelligence Agency at a land cost of not to exceed \$1,000,000, and a construction cost of not to exceed \$54,500,000. GSA was authorized to demolish temporary Government buildings in the District of Columbia equivalent to space to that relinquished by CIA on occupancy of the new headquarters.

Section 501 of the above act further authorized proceeding with the facilities without regard to certain revised statutes relating to the expenditure of public funds for the acquisition of land and contracts for the construction of buildings.

Funds for the preparation of plans and specifications and for other purposes as authorized by Title IV of P. L. 161 were appropriated to CIA by the Supplemental Appropriation Act, 1956, P. L. 219, 84th Congress, approved August 4, 1955.

The CIA people contend that the authorization and appropriation to them contravenes our authority and places in them full and complete authority over and responsibility for the design and construction of the building. They say they intend to use our services in more or less an advisory capacity.

It is our position that, as a matter of law, responsibility for design and construction of the building is in GSA by virtue of our preclusive authority in the field of construction of general purpose office buildings derived from the Public Buildings Act of 1926, as amended.

Consideration has been given as to whether exemption in Section 501 of the above act, of the applicability of R.S. 3734, as amended, supports the position of CIA. That statute reads as follows:

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"No money shall be expended upon any public building until after sketch plans showing the tentative design and arrangement of such building, together with outline description and detailed estimates of the cost thereof shall have been made by the Administrator of General Services (except when otherwise authorized by law) * * *"

Inclusion of the authorization for the construction of the CIA building in P.L. 161, which is essentially an act to authorize certain construction at military, naval and air force installations, appears to have been merely a matter of convenience. That the above exemption was not intended to have any applicability to the construction of the CIA building is clearly established by the Senate Committee on Armed Services, Report No. 694, on H. R. 6829, later enacted as Public Law 161, wherein it is stated:

"Section 501 provides the authority to acquire land on which to provide family housing for military personnel. It also contains the customary language avoiding the application of certain sections of the Revised Statutes that impose unreasonable restrictions on the prosecution of a military construction program under conditions prevailing today."

Furthermore, testimony during hearings preceding enactment of above acts, shows that GSA worked with CIA in preparing the estimates upon which the legislation was based, and that the Senate Subcommittee on Real Estate and Military Construction of the Committee on Armed Services recognized that the work should be performed by a central construction agency properly equipped for the purpose and not by CIA. There was discussion as to whether the work would be done by the Corps of Engineers or GSA and it was at least implied that GSA would be expected to design and construct the building. See Committee Hearings on S. 1765 (H.R. 6829) at pages 548, 549.

The authorizing law does not include an exemption from the Act of May 25, 1926, 44 Stat. 630, 631, as amended, 40 U.S.C.A. 341, 342, known as the Public Buildings Act of 1926. Sections 1 and 2 of this act read, respectively, in pertinent part as set out in Title 40, U.S.C.A.:

"To enable the Administrator of General Services to provide suitable accommodations in the District of Columbia for the executive departments, and independent establishments of the Government * * *, and for court-houses, post offices, immigration stations, customhouses, marine hospitals, quarantine stations, and other public buildings of the classes under the control of the Administrator of General Services in the States, * * * he is authorized and directed to acquire, by purchase, condemnation, or otherwise, such sites and additions to sites as he may deem necessary, and to cause to be constructed thereon, and upon lands belonging to the Government conveniently located and available for the purpose (but exclusive of military and naval reservations), adequate and suitable

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buildings for any of the foregoing purposes, * * * * *

Provided further, That all sketches, plans, and estimates for buildings shall be approved by the Administrator of General Services and the heads of the executive departments which are to be located in such building.

"(a) The work of preparing designs and other drawings, estimates, specifications, and awarding of contracts, as well as the supervision of the work * * * * shall be performed by the Administrator of General Services, except as otherwise provided in said sections."

The CIA headquarters building will be a general purpose office building which will have a gross floor area of approximately 2,300,000 square feet; basement, seven (7) floors, reinforced concrete frame; pile foundations; air conditioning; fluorescent lighting; auditorium, shops and laboratory areas, and cafeteria.

Since July 1, 1950, the effective date of Reorganization Plan No. 18 of 1950 (64 Stat. 1270; 5 U.S.C. 1332-15, note) we have applied the criteria set forth in Section 2 of the Plan as determinative of the classes of "other public buildings * * * * under the control of the Administrator of General Services." Without question, the CIA headquarters, on completion, would be an office building under our control for the purposes of operation, maintenance, and custody as is true of the buildings presently occupied by CIA.

We want to call attention, specifically to the proviso quoted from Section 1 of the Public Buildings Act of 1926 which requires joint approval of the plans, etc., by the head of the agency to be located in a new building and myself as a matter of law and as a condition precedent to the exercise of our responsibilities under the Act. Even if this was not required by the law, it seems eminently proper to us a matter of policy as it assures compliance with all reasonable needs of a special nature of the agency initially designated to occupy the particular building.

The authorization to CIA is merely "to provide" for a building, without specification of the manner in which it was to be provided. In view of the legislative history of the authorizing law and our express authority for such construction, the applicability of which was not exempted, we feel there can be little doubt as to the soundness of our legal position.

In many similar cases in the past funds appropriated to other agencies for construction of general purpose office space and other structures have been transferred to us and we have performed the design and construction under the Public Buildings Act, supra, and the applicable regulations and procedures.

We worked with the CIA in the early planning stages and preparation of cost estimates and understood that design and construction would be performed by us. Therefore, we felt it unnecessary to insist upon a provision so requiring in the authorizing or appropriation act.

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Aside from the purely legal position stated above, we feel very strongly as a matter of general policy that, if the Government is to have a central agency for design and construction of non-military public buildings, such as our Public Buildings Service in GSA, performance of all functions that fall within its sphere of responsibility should be assigned to it.

Our record shows that we have designed and constructed many similar general purpose office buildings as well as other structures with special features in complete cooperation with and to the satisfaction of the occupying agencies.

Economy and efficiency in the Federal construction can best be achieved with an organization staffed with personnel equipped with the professional qualifications, technical "know-how" and long experience in negotiation, awarding, administration and supervision of contracts with architects, engineers and constructors for the design and construction of public buildings.

Granting frequent special exemptions to agencies for their own design and construction activities unquestionably will destroy any effort on our part to achieve uniformity in construction cost and over-all economy and efficiency in the construction of general purpose and related office space for the Federal Government.

We estimated the cost of this building in accordance with the construction cost standards agreed upon between your office and mine for the lease purchase program.

To proceed with design and construction in the manner proposed by CIA would remove us from control and preclude us from assuring conformity to those standards.

This well might place the entire lease purchase program in jeopardy.

Accordingly, if a decision is made contrary to our position we believe that it would be better to remove us from any further participation in the design and construction of the building rather than risk an adverse affect on the lease purchase program.

An expression of your views will be appreciated.

Cordially yours,

/s/ EDMUND F. MANSURE
Administrator